

In subsection (c)(2) of this section, the word "individual" is substituted for the former word "person", since only a human being may be a fire fighter, fire fighting instructor, or rescue squad member. As to the definition of "person", see § 1-101 of this article.

The Labor and Employment Article Review Committee notes, for consideration by the General Assembly, that Ch. 438, Acts of 1990 allows the county council or county commissioners of certain counties to provide for members of advanced life support units to be covered employees. In light of that, the General Assembly may wish to consider adding members of advanced life support units to the list of individuals to whom the presumptions under this section apply.

The General Assembly also may wish to consider adding Deputy State Fire Marshals to the list of individuals to whom the presumptions under this section apply. Deputy State Fire Marshals are exposed to many of the same conditions as fire fighters and law enforcement officers.

The Committee also notes, for consideration by the General Assembly, that, while subsection (d)(2) of this section provides that the compensation received under this title shall be adjusted so that the total of compensation and retirement benefits does not exceed the weekly salary that was paid to the individual, the provision does not specify the time that should be used for determining the weekly salary of the individual. The General Assembly may wish to clarify the time that should be used to determine the weekly salary of the individual.

Defined terms: "Compensation" § 9-101

"County" § 1-101 "Covered employee" § 9-101

"Occupational disease" § 9-101

9-504. HERNIA.

EXCEPT AS OTHERWISE PROVIDED, AN EMPLOYER SHALL PROVIDE COMPENSATION IN ACCORDANCE WITH THIS TITLE TO A COVERED EMPLOYEE FOR A HERNIA CAUSED BY AN ACCIDENTAL INJURY OR BY A STRAIN ARISING OUT OF AND IN THE COURSE OF EMPLOYMENT IF:

(1) THE COVERED EMPLOYEE PROVIDES DEFINITE PROOF THAT SATISFIES THE COMMISSION THAT:

(I) THE HERNIA DID NOT EXIST BEFORE THE ACCIDENTAL INJURY OR STRAIN OCCURRED; OR

(II) AS A RESULT OF THE ACCIDENTAL INJURY OR STRAIN, A PREEXISTING HERNIA HAS BECOME SO AGGRAVATED, INCARCERATED, OR STRANGULATED THAT AN IMMEDIATE OPERATION IS NEEDED; AND

(2) NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE ABOUT NOTICE, THE INJURY OR STRAIN WAS REPORTED TO THE EMPLOYER WITHIN 30 DAYS AFTER ITS OCCURRENCE.